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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Human rights and terrorism

Note by the Secretary-General

Introduction

1. In resolution 1995/43 of 3 March 1995 entitled "Human rights and terrorism", the Commission on Human Rights requested the Secretary-General to continue to collect information on this question from all relevant sources and to make it available to the special rapporteurs and working groups concerned and to the Commission on Human Rights for their consideration.

2. The Secretary-General, by a note verbale dated 3 May 1995, drew the attention of all Member States, competent specialized agencies and intergovernmental organizations to Commission on Human Rights resolution 1995/43 and to General Assembly resolution 49/185 entitled "Human rights and terrorism", requesting information by the end of October 1995.

3. A second note verbale was sent on 6 September 1995 reminding Governments to communicate their views with respect to the possible establishment of a United Nations voluntary fund for victims of terrorism, in accordance with paragraph 4 of General Assembly resolution 49/185.

4. The attention of the Commission is drawn to the report of the Secretary-General to the General Assembly entitled "Human rights and terrorism" submitted in accordance with paragraph 4 of Assembly resolution 49/185 containing the comments made by Member States on the possible establishment of a United Nations voluntary fund for victims of terrorism (A/50/685).

5. In accordance with the requests formulated in paragraph 4 of Commission on Human Rights resolution 1995/43, the replies in pursuance of the note verbale sent by the Secretary-General on 3 May 1995 received at the time of the preparation of the present note are summarized in annex I below. Annex II to the present note contains the replies of Member States concerning the possible establishment of a United Nations voluntary fund for victims of terrorism which had arrived after the publication of the Secretary-General's report to the General Assembly. All replies have been made available in full to the special rapporteurs and working groups concerned. The full text of all replies is available for consultation with the Secretariat.

Annex I

SUMMARIES OF REPLIES TO THE NOTE VERBALE OF THE SECRETARY-GENERAL

Angola

[Original: French]

The Government indicated that Angola was one of the countries which had been the victim of terrorism to the greatest extent, first as a result of apartheid in South Africa and subsequently due to foreign interference in its internal affairs. The Government indicated that it expected the Secretary-General and the international community to closely monitor the demobilization in Angola so that it may take place as soon as possible with the technical assistance of the United Nations, the specialized agencies and other international organizations in order that the spectre of terrorism, which is still present, may go away.

Argentina

[Original: Spanish]

The Government indicated that Argentina had actively participated in the adoption of international legal standards aimed at combating and eradicating terrorism and provided a list of the principal international treaties dealing with various aspects of terrorism to which Argentina was a party.

The Government has taken a two-pronged approach to the matter in international forums which is aimed, on the one hand, at the condemnation of terrorism by the international community, including a series of general measures to combat terrorism, and, on the other, at undertaking specific action in order to thwart the abuse of diplomatic privileges and immunity. In addition, the heads of State or Government attending the American Summit held at Miami, United States of America, in December 1994 reiterated their energetic condemnation of international terrorism and committed themselves to jointly and firmly combat terrorist acts in any part of the continent and by all legal means. As regards the second approach, the Plan of Action of the American Summit outlined the measures that ought to be taken if the cited commitment was to be rendered effective. A Subregional Consultative Meeting on Cooperation aimed at Preventing and Eliminating International Terrorism was held on 1 and 2 August 1995 at Buenos Aires. A copy of the Final Declaration was attached.

Given the increase in the intensity of international terrorist acts over the past years, the Argentine Congress was examining the draft of a law that would incorporate criteria and sanctions for terrorist activity in the Penal Code.

Azerbaijan

[Original: Russian]

The Government of Azerbaijan submitted a note containing information concerning "the organization and conduct of terrorist activities by the Republic of Armenia against the Azerbaijani Republic", stating that these activities were aimed at undermining its sovereignty, territorial integrity and political independence and flagrantly violated basic human rights and freedoms, in particular the right to life. It indicated that this information was an essential factor in assessing the Armenian-Azerbaijani conflict.

The note contained an annex entitled "Organization and Conduct of Terrorist Activities by the Republic of Armenia Against the Azerbaijani Republic" which had the following subheadings: "International Armenian terrorism", "Acts of terrorism against road transport and land communications in Azerbaijani territory", "Acts of terrorism carried out by Armenia against Azerbaijani rail, sea and air transport", "Terrorism elevated to the rank of State policy of the Republic of Armenia (criminal case against I.A. Khatkovsky)", "Background information on some international Armenian terrorist organizations" such as the "Armenian Secret Liberation Army (ASLA)", the "Armenian Secret Army for the Liberation of Armenia (ASALA)", the "Union of Armenians", the "Avengers of the Armenian genocide", the "Armenian Liberation Movement", the "Armenian Liberation Front", the "Union of Young Armenians", the "'9 June' group", the "'Orly' group", the "Switzerland group", the "Democratic Front", the "'Committee for Aid to Armenian Political Prisoners'", and the "Suicide squad".

Belarus

[Original: Russian]

The Government indicated that a Criminal Code had been in force in the Republic of Belarus since 1961 and that a number of amendments and additions were incorporated as from 1 May 1994. The Code sets out special provisions on criminal responsibility for plotting and perpetrating terrorist acts (arts. 63, 64, 208-2, 211-1, 211-2, 211-3, 211-4, 212, 212-1, 213, 213-1 and 213-2).

The cited articles of the Criminal Code, which are intended to combat terrorism, provide that the illegal acquisition, possession, use and theft of, and the violation of regulations governing the registration and transport of radioactive material, firearms, ammunition and explosives, are offences under the law. Amendments to the Criminal Code intended to step up the fight against terrorism have been prepared and put into final form by the Supreme Soviet of Belarus.

The Government indicated that according to statistics, the courts of the Republic of Belarus did not consider a single criminal case under the above-mentioned articles in 1994.

However, in view of the international ramifications and exceptional danger presented by terrorism, competent organs were taking bilateral and other steps to intensify international cooperation in this field, such as the signing on 13 March 1995 of a memorandum of understanding between Belarus and the United Kingdom of Great Britain and Northern Ireland concerning cooperation in the fight against illicit trafficking in narcotic drugs, organized crime and international terrorism, and the agreement signed on 4 April 1995 between Belarus and Germany concerning cooperation in the fight against organized crime, terrorism and other dangerous criminal acts.

India

[Original: English]

The Government of India indicated that there was now a growing international consensus against the menace of terrorism and the need to combat it. This consensus had been strengthened by the Vienna Declaration and Programme of Action, by resolutions on the subject adopted by the General Assembly at its forty-ninth session, the Commission on Human Rights at its fifty-first session, and the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-sixth and forty-seventh sessions. The Declaration adopted at the Summit of the heads of State or Government on the occasion of the fiftieth anniversary of the United Nations and the Declaration adopted at the XI Non-Aligned Summit held at Cartagena, Colombia, were also mentioned in this regard.

The problem of terrorism has also been drawing attention at the regional level. The Conference on Security and Cooperation in Europe expressed its concerns in this connection in the "Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE". The South Asian Association for Regional Cooperation countries have ratified the SAARC Convention on Suppression of Terrorism and India has also enacted the enabling legislation.

The Government of India indicated that the country had faced the menace of terrorism on a massive scale in all its forms and ramifications particularly during the last decade. It indicated that terrorism in India was initially confined to the north-eastern States. The State of Punjab and the State of Jammu and Kashmir were also mentioned. The Government indicated that the various manifestations of terrorist violence in India in the context of Commission on Human Rights resolution 1995/43 had taken a heavy toll during the last few years. A description of the situation was provided in an account with the following subheadings: (a) destruction of human rights and fundamental freedoms; (b) destruction of democracy and destabilizing legitimately constituted Governments; (c) threat to territorial integrity and security of States; (d) undermining pluralistic civil society; (e) adverse consequences on social and economic development of States; and conclusion.

In a separate communication, the Government of India transmitted a list of 62 "incidents of terrorist violence in the Indian State of Jammu and Kashmir" during the period 10 to 30 September 1995 and "Information on visits to the Indian State of Jammu and Kashmir by foreign journalists and diplomats" in August 1995. In an additional communication, the Government of India

submitted a list of 73 "Incidents of terrorist violence in the Indian State of Jammu and Kashmir" during the period 29 October 1995 to 30 November 1995 as well as "Information on visits to the Indian State of Jammu and Kashmir by foreign journalists and diplomats in October 1995.

Morocco

[Original: French]

The Government indicated that, given its commitment to democracy and human rights, it could not but share the concerns of the Commission on Human Rights by condemning all terrorist acts, methods and practices regardless of their motivation and the form in which they manifested themselves. It also condemned all acts of blind terror committed in the name of a given "liberation" ideology whose nature negatively affected State security and the tranquility of citizens.

The Government of Morocco reaffirmed its support for the work of the Commission with regard to this issue and indicated that it was prepared to engage in all forms of cooperation aimed at combating terrorism at the national, regional and international levels.

Nepal

[Original: English]

The Government indicated that Nepal was one of the signatories of the SAARC Regional Convention on the Suppression of Terrorism and that no case of terrorist activities had been recorded in Nepal.

Niger

[Original: French]

The Government indicated that terrorism was a phenomenon with multiple causes, most of which are politically motivated. Nevertheless, there are also acts of banditry which are perpetrated in large cities and certain parts of the countryside that could be described as being economically motivated. They are primarily linked to armed robbery as well as drug and other trafficking.

The Government of Niger indicated that the views of each Government are determined by its interests and its position in the world. The international community has already identified certain countries which promote terrorism on a global scale.

Niger as a democratic country could not condone terrorism in any form. It believed that the full measure of the phenomenon should be considered in view of the disastrous consequences and serious threat which it posed for global equilibrium and for the respect and safeguarding of individual rights and freedoms and, therefore, for the democratic ideal.

Terrorism is one of the principal preoccupations of the international community and the United Nations and Niger expressed its solidarity with all the countries which were exposed to the problem, even while a definitive solution to it was being sought.

San Marino

[Original: French]

The Government indicated that San Marino did not have internal legislation specifically aimed at combating terrorism. On the other hand, no incident of a terrorist nature had taken place on its national territory.

Sri Lanka

[Original: English]

In its reply, in addition to providing its views on the possible establishment of a United Nations voluntary fund for victims of terrorism contained in Annex II below, the Government of Sri Lanka made general observations concerning terrorism. It indicated that the primary purpose of terrorism was to spread terror among civilian populations aimed at their expulsion from or even extermination in certain areas, or at compelling them to collaborate with the terrorists. The Government was of the view that the members of the civilian population who were subjected to terrorism were deprived of their human rights and fundamental freedoms such as the right to life, the right to freedom of expression and the right to freedom of movement. Terrorism had different forms and manifestations and was in certain cases closely linked to drug trafficking, while in other cases it thrived on money laundering and trafficking in illegal migrants, and had proved in numerous instances to be the source of illicit movements of arms and of organized crime. The main thrust of the phenomenon was to undermine political order, democratic regimes and efforts towards democratization.

The Government of Sri Lanka indicated that the strong reaction of the international community to terrorism was manifested in the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights. It also mentioned that another school of thought saw terrorism as a grave violation of human rights and fundamental freedoms in line with article 30 of the Universal Declaration of Human Rights.

In its reply, the Government stated that the international community was well aware of the activities of the Liberation Tigers of Tamil Eelam (LTTE) which threatened the territorial integrity and security of Sri Lanka and its legitimately constituted Government, and referred in this connection to the report of the Special Rapporteur of the Commission on Human Rights on religious intolerance (E/CN.4/1995/91). It listed a number of political and other developments which had taken place in 1995 and indicated that the Government of Sri Lanka was compelled to respond to what it termed LTTE terrorism in the interest of protecting the territorial integrity and security of the country as well as preserving law and order.

Sri Lanka indicated that the LTTE's efforts to destroy the human rights and fundamental freedoms of civilians belonging to the Sinhalese, Tamil and Muslim communities had been evident in a series of terrorist acts perpetrated on the civilian population and public institutions. The reply cited the massacre of 42 villagers in Kallarawa, Trincomalee district, and the massacre of nearly 100 civilians, including children, women and the elderly, in villages located in the North-Central and Eastern Provinces which took place in 1995. An enumeration of a number of attacks perpetrated during previous years was also provided.

The Government indicated that the LTTE was also known for its cross-border terrorism and that it did not hesitate to kill or threaten to kill its opponents belonging to the Tamil community in a number of countries. It stated further that the organization was reportedly involved in the illicit movement of arms, drug trafficking and other organized crime worldwide.

In concluding its reply, the Government of Sri Lanka condemned terrorism in all its forms and manifestations and called upon all States to condemn terrorism in its totality and not to tolerate such a phenomenon in territories under their jurisdiction.

Turkey

[Original: English]

On 3 April 1995, the Government transmitted to the United Nations High Commissioner for Human Rights a note entitled "Views of the Government of the Republic of Turkey on the resolution entitled 'Human Rights and Terrorism', adopted by the Commission on Human Rights on 3 March 1995". At the request of the Government, this note was circulated as a United Nations document (E/CN.4/1996/109) and was made available to all thematic special rapporteurs and working groups.

In response to the Secretary-General's note verbale dated 3 May 1995, the Government sent on 12 May 1995 to the United Nations Office at Geneva (Centre for Human Rights) two notes, "one related to the concept of terrorism, the other being a non-exhaustive compilation of the attacks perpetrated by the terrorist PKK organization in Turkey during the year 1994".

The Government stated that there was no clear-cut and comprehensive definition of terrorism owing, inter alia, to the immense variety of motives, forms, authors, conditions, objectives, etc. It expressed the view that many definitions equated terrorism with revolutionary terrorism aiming at the overthrow of existing social norms and of the State, while others defined it on the presumption that terrorism was of an arbitrary and unpredictable character. The reply also mentioned a definition given in 1960 by a United States task force, as well as other definitions by the United States Government. The Government of Turkey also cited the British Prevention of Terrorism Act of 1974.

The Government stated that although difficulties existed in compiling the various aspects of terrorism into a single definition, it was widely agreed that "terrorism is the use or the threat of the use of violence, a method of

combat, or a strategy to achieve certain targets, that it aims to induce a state of fear in the victim, that it is ruthless and does not conform with humanitarian rules, and that publicity is an essential factor in the terrorist strategy". The reply of Turkey also refers to the European Convention on the Suppression of Terrorism which in its article 1 aims at distinguishing terrorism from other political or related offences.

The Government of Turkey stated that terrorist acts, methods and practices seemed to be adopted by movements which were of an exclusionist nature such as those espousing racism, religious fundamentalism and ethno-nationalism.

Dwelling on the causes of terrorism, the Government of Turkey ascribed its emergence to a variety of theories which included: socio-economic backwardness or sudden deprivation (pauperism); reaction to rapid changes in the mode of life; lack of minority rights; lack of democracy; and ideology and leadership. It described the connection between terrorism and so-called "objective factors" as rather tenuous.

The Government of Turkey then provided extensive comments on the historical evolution of terrorism.

With regard to the approach of the international community to terrorism, the Government indicated that two main concerns shaped its approach, with one considering terrorism as an ordinary crime punished by States in accordance with domestic legislation and the other relating to the violations of human rights of terrorist suspects. The reply further mentioned relevant resolutions of the United Nations General Assembly such as resolution 2625 (XXV) and its subsection entitled "The principle of equal rights and self-determination of peoples". It also cited articles 44 and 51 of the Protocol I Additional to the Geneva Conventions and article 13 of Protocol II.

The Government of Turkey further referred to Commission on Human Rights resolutions 1990/75 and 1991/29 which dwelt on the adverse effect on the enjoyment of human rights of such acts of violence committed by armed groups and stated that it was somewhat ironic to talk about the enjoyment of human rights in conditions of massive killings by terrorist armed groups. It also cited Part I, paragraphs 2 and 17 of the Vienna Declaration and Programme of Action.

The Government stated that the United Nations General Assembly had been more realistic than the Commission on Human Rights in its resolutions 44/29 and 46/51, recognizing for the first time that the types of violence resorted to by terrorist groups, drug traffickers and their paramilitary gangs violated basic human rights. It added, however, that terrorism was admitted within the realm of human rights violations as of 1992, following the reinterpretation of article 30 of the Universal Declaration.

In addition, the Government of Turkey referred to resolution 1993/13 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities which openly qualified all acts, methods and practices of terrorism in all its forms as gross violations of human rights. The

Government stated that this qualification was reaffirmed with increasing emphasis in General Assembly resolution 48/122 and Commission on Human Rights resolution 1994/46 which mentioned "gross violations of human rights perpetrated by terrorist groups" and which underlined that terrorism could not be justified under any circumstances. It also noted that the Sub-Commission in resolution 1994/18 reaffirmed the contents of previous resolutions and asked for the preparation of a working paper on the question of terrorism and human rights.

The Government further cited the work of the International Law Commission which in article 20 of its revised draft statute for an international tribunal included "crimes against humanity" within its jurisdiction, noting that in its interpretation of that article, the Court had specified that the term "crimes against humanity" also encompassed "widespread and systematic violations aimed at the civilian population in whole or in part", which, in turn, included terrorism (ILC(XLVI)/ICC/WP.3, p. 25).

The Government stated that the above developments were all derived from the ever-increasing urgency felt by the international community to prevent and combat terrorism, adding that the stage had been reached at which a justified attempt was being made to elevate the unlawful character of terrorism from the level of "gross violation of human rights" to that of a "crime against humanity".

The Government of Turkey indicated that a purely human rights approach adopted by the international community in general and by NGOs in particular towards terrorism resulted in the exclusive monitoring of human rights violations allegedly committed by States and their security forces against terrorist suspects. Moving from the premise of non-derogable rights in public emergency situations, human rights NGOs focused on these violations while neglecting terrorist acts or the terrorist method of combat by armed groups which were responsible for the deaths of thousands of innocent civilians. This gave a perverted picture of the States, as if they used the pretext of combating terrorism to commit unilaterally and almost without reason or provocation all sorts of violations in breach of the rule of law. A number of factors that needed to be taken into consideration were enumerated such as the fact that there were conflicts which were waged by surrogates of neighbouring countries which trained, armed, indoctrinated and provided finances, bases, shelter and headquarters to the armed groups cited above in breach of Article 2 (4) of the Charter of the United Nations and of General Assembly resolution 3314 (XXIX) on Definition of Aggression (annex, art. 3 (g)). The Government stated in addition that it was conveniently forgotten that the violations which came about not as a consequence of endogenous factors in a country but as a result of external instigation could not be considered as human rights violations <u>per se</u>.

The note further provided an overview of the evolution of the perception of terrorism in some Western circles in the 1980s and 1990s.

As concerns human rights violations, communications and terrorism, the Government stated that the aforementioned complex developments had led to the rise of NGOs which were conceived as organizations to monitor respect for human rights the world over. The reply referred to Sub-Commission

resolution 1 (XXIV) which laid down, inter alia, the criteria to which communications should conform for admissibility under the "1503 procedure" and enumerated them. It stated that most of the communications originated from NGOs whose second-hand knowledge of the violations had very rarely, if ever, been backed up by clear evidence, and that most were admitted before domestic remedies were exhausted. This resulted in a confused situation. Special rapporteurs as well as working groups and treaty bodies acted on the basis of allegations of this nature, and since they were not equipped with prosecuting powers and facilities, their reports reflected the same weaknesses as the allegations themselves. Some of the NGOs had lost their credibility because of this situation, since the rationale underlying their very existence presupposed their impartiality and objectivity; however a good number of NGOs were clearly taking sides in conflicts. Some armed groups had even created their own NGOs with the help of western NGOs.

In chapter II of its note entitled "A Specific Case: PKK Terrorism in Turkey", the Government stated that the PKK's objectives could be summarized as "a quest for an independent Kurdish State built on Marxist-Leninist principles" whose territory would come from the "secession of south-eastern and eastern Anatolia from Turkey, allegedly as a result of the exercise of the right to self-determination". The reply subsequently provided a detailed account of the views of the leader of the PKK.

The Government indicated that Turkey should not be expected to recognize the criminal ethnic identity which the PKK was fighting to develop, which was socio-pathological and represented a return to tribalism. The equation proposed by the PKK was a simple one - "the Kurds must either give up their present identity and support the PKK, or die" - indicating that for the PKK to survive, it was compelled to resort to terrorism against its own ethnic group. Part of the civilian population had bowed to the PKK as a result.

The reply further stated that the PKK also exerted pressure, violent if necessary, on moderate organizations. It also indicated that the inhuman attitude inherent in terrorist groups was also visible in the PKK's chain of command. The method adopted by the PKK to impose its views and aspirations was based on murder and destruction. Both Turkish and Kurdish civilians were killed. The reply subsequently dwelt on the financial resources of the PKK whose finances were reported to be obtained mainly through drug trafficking, extortion and robbery.

The Government of Turkey indicated that the PKK "is recognized as a terrorist group by all countries, although the PKK and its NGO supporters call it 'guerrilla'". It also stated that "the number of civilians who have been killed by the PKK is much higher than its killings of the Turkish security forces, and that Kurdish civilians, victims of PKK terrorism made up more than 90 per cent of those murdered by the PKK", which testified to its terrorist nature. A crucial and perfidious element in the PKK's method of combat lay in its use of civilians in terrorist activities. The PKK also had various newspapers and periodicals and exploited the Kurdish diaspora, which was located mainly in Western Europe.

The Government of Turkey expressed its astonishment that appeals could still be made for a "political solution" to the problems created by terrorists. It recalled that in the case of Turkey, it should be borne in mind that the PKK terrorist campaign had not been initiated against the military rule (1980-1983), but had started on 15 August 1994, i.e. nine months after Turkey returned to democracy, which is the only available framework within which grievances can be aired and peaceful solutions worked out.

In its conclusions, the Government stated that its note had been prepared on the assumption that a reasonable degree of depoliticization was achievable in the field of human rights. The international community should focus on terrorism within national borders as the potential for an epidemic of terrorism was enormous. The purely human rights approach towards terrorism adopted by the United Nations human rights system was based on monitoring human rights violations allegedly committed only by the States in their combat against terrorism, while neglecting terrorist killings of civilians and terrorist destruction of civilian targets by armed groups - an approach not conducive to grasping the phenomenon in its entirety. A new, more effective and intelligent approach to terrorism should be developed, with all actors in the United Nations human rights system individually and collectively reassessing both terrorism and their attitudes towards it. Terrorism was not a way to promote human rights and freedoms or solve ethnic problems. The "unequivocal" condemnation of terrorism was practically useless as a one-sided condemnation of human rights violations alleged to be committed by States. NGOs should allocate as much space in their reports to the abuses and atrocities committed by armed groups as they do to violations by States.

The Government of Turkey recommended that both human rights law and humanitarian law should incorporate the concept of "systematic and wide-spread killing of civilians" as a distinct characteristic of terrorism under the heading "Crimes against humanity". It called on United Nations human rights entities to monitor the third countries which may be involved in a conflict. Populations should be informed about the right of self-determination and told that they can exercise this right only through "legitimate action" and that they are not authorized to take any action, not even a civil action, which would dismember or impair the territorial integrity or political unity of States whose Governments represent the whole people, without discrimination.

The Government also provided a list of 227 attacks which are reported to have been perpetrated by the PKK from 1 January to 31 December 1994.

On 3 November 1995, the Government transmitted to the United Nations High Commissioner for Human Rights an information note "related to the amendments brought by the Turkish Grand National Assembly on 27 October 1995 to article 8 of our Anti-Terror Law". The note contained information under the following headings: "Turkey Amends Article 8 of Anti-Terror Law"; "Appendix I: Information Note on the Amendments to Article 8 of the Anti-Terror Law No. 3713"; and "Appendix II: Excerpts from the 'juridical grounds' underlying Law No. 4126, amending Law No. 3713". Article 8 deals with separatist propaganda against the political unity and territorial integrity of the country. Its amendments introduced the concept of intent or aim to destroy the territorial integrity and political unity by written or oral propaganda.

On 13 December 1995, the Government transmitted to the High Commissioner for Human Rights and to the Assistant Secretary-General for Human Rights an information note on the immediate outcome of the amendments brought to Law No. 3713. The provisions relating to the freedom of expression of Law No. 3713 were amended by Law No. 4125 which was adopted by the Turkish Grand National Assembly on 27 October 1995. The Government indicated that the amendments to the Anti-Terror Law had changed the essence and had narrowed the scope of the offence stipulated in article 8, making it possible for judges to award fines instead of prison sentences when invoking that article. It also enabled judges to commute such sentences to fines or other sanctions, or to suspend them altogether. The courts had immediately taken action under the amendments to the Anti-Terror Law and had begun to re-examine the pertinent case files. The note indicated that as of 1 December 1995, 137 persons had been released from prison due to the suspension of their sentences under article 8. Numerous persons whose trials were under way had been acquitted and the courts had ruled that there was no need for trial concerning complaints under article 8 lodged against other persons. The note listed the names of 20 persons whose prison sentences had been suspended under article 8 of the Anti-Terror Law, the names of 3 persons who had their penalties under article 8 revoked, the names of 3 persons who were tried under article 8 while remaining at liberty and who were acquitted by the court, and the names of 4 persons with regard to whom the courts had decided that there was no need for trial.

Venezuela

[Original: Spanish]

The Government transmitted a note to which "General considerations on the subject of human rights and terrorism" was attached, indicating that Venezuela had condemned all terrorist acts, methods and practices regardless of their motivation or the goals which they aimed to achieve. It believed that such acts affect friendly relations between States, threaten their security and territorial integrity and constitute a factor which disrupts economic and social development.

The multiple dimensions which the phenomenon of terrorism has acquired warrant concrete actions aimed at drawing up an international agreement which would encompass a definition of terrorism as well as stipulate the obligations of States. An instrument of this type would help clearly to differentiate between terrorism and other criminal activities.

The Government welcomed the adoption by the General Assembly of resolution 49/60 containing the Declaration on Measures to Eliminate International Terrorism, deemed to be an important step in the struggle against terrorism despite its not being legally binding. In addition, it believed that the Organization of American States should endeavour to deal with the subject in a comprehensive manner.

Consideration of this issue should take place in a global manner, without linking it to other more specific issues. In fact, the principal responsibility incumbent upon the State regarding investigation and sanctions

for terrorist practices should be preserved. In order to overcome the existing deficiencies, an international legal instrument should be drawn up and Governments should commit themselves to systematically exchange information and implement the mechanisms for legal assistance at the bilateral and multilateral levels.

League of Arab States

[Original: Arabic]

The League of Arab States indicated that the issue of terrorism was a matter of great concern to the Arab States, which firmly believed that this phenomenon constituted a gross violation of the most basic human rights, namely peace and security. Moreover, this phenomenon was no longer of a regional nature affecting one or two countries; it had become a worldwide phenomenon affecting the international community as a whole.

The League stated that it supported all endeavours to put an end to those practices, which were rightly regarded as gross violations of human rights. It expressed its support for General Assembly resolution 49/185 in so far as it stresses the need for concerted international and regional efforts to eliminate the phenomenon, and particularly for paragraph 3 thereof.

In view of the need to confront and eliminate terrorism, the Arab States had prepared a plan, which was currently being discussed, to combat terrorism and extremism. International cooperation in this field could undoubtedly produce extremely significant results in the campaign against terrorism.

Organization of American States

Inter-American Commission on Human Rights

[Original: English]

The Organization of American States transmitted for the attention of the special rapporteurs and working groups concerned copies of several recent Inter-American Commission on Human Rights reports making reference to the subject of terrorism: "Annual Report of the Inter-American Commission on Human Rights 1992-1993"; Second Report on the Situation of Human Rights in Colombia (1993)"; "Report on the Situation of Human Rights in Peru (1993)"; and the "Fourth Report on the Situation of Human Rights in Guatemala" (1993).

Organization for Economic Co-operation and Development

[Original: English]

The OECD indicated that the subject of General Assembly resolution 49/185 and Commission on Human Rights resolution 1995/43 fell outside the sphere of its current activities and it therefore had no information to submit.

Organization for Security and Cooperation in Europe

Office for Democratic Institutions and Human Rights

[Original: English]

In its reply, the Office for Democratic Institutions and Human Rights indicated that although the OSCE's commitments did not directly address the issue of human rights and terrorism, they constituted useful political commitments to the eradication of terrorism and to cooperation in this field.

The OSCE cited the Concluding Document of the Madrid Meeting of 1980, notably the part on questions relating to security in Europe; paragraph 25 of the Document of the Stockholm Conference of 1986 on Confidence- and Security-Building Measures and Disarmament in Europe Convened in Accordance with the Relevant Provisions of the Concluding Document of the Madrid Meeting; paragraphs 8 to 10 of the Principles under Questions relating to security in Europe contained in the Concluding Document of Vienna of 1989; paragraph 26 of the Helsinki Summit Declaration contained in the CSCE Helsinki Document 1992 "The Challenges of Change"; and chapter IV, part II of the Budapest Document 1994 entitled "Towards a Genuine Partnership in a New Era".

International Criminal Police Organization (Interpol)

[Original: English]

Interpol noted that it was interesting that the two United Nations resolutions aligned very closely with several of Interpol's resolutions which had been approved by its General Assembly and formed the framework of its work in the fight against terrorism.

Annex II

REPLIES CONCERNING THE POSSIBLE ESTABLISHMENT OF A VOLUNTARY FUND FOR VICTIMS OF TERRORISM

Angola

[Original: French]

The Government of Angola calls on the industrialized nations, in the first place, and also on all nations in the world to help set up a United Nations voluntary fund for victims of terrorism, even though Angola's own difficult material conditions do not, for the time being, allow it to make any contributions to the fund.

Azerbaijan

[Original: Russian]

The Azerbaijani Republic supports the provisions of the General Assembly resolution and the appeal in paragraph 4 to all Member States concerning the possible establishment of a United Nations voluntary fund for victims of terrorism.

India

[Original: English]

The Government of India supports the establishment of a United Nations voluntary fund for victims of terrorism. The Commission on Human Rights should also consider appointing a working group or a special rapporteur to further study the impact of terrorism on human rights.

Mauritius

[Original: English]

The Government of the Republic of Mauritius welcomes General Assembly resolution 49/185 and the initiative of the Assembly to establish a United Nations voluntary fund for victims of acts of terrorism.

While the Republic of Mauritius is not directly affected by the scourge of terrorism, the Mauritian Government views with great concern the growing connection between terrorist groups and drug traffickers.

The Government considers that one of the ways of financing the voluntary fund can be by confiscating all funds and property tainted by terrorism and having them declared forfeit by the courts. The money obtained therefrom shall then be used to finance the United Nations voluntary fund to rehabilitate victims of terrorism.

In that connection the Secretary-General is invited to urge Member States to enact in their respective jurisdiction laws which will empower courts to confiscate funds or property intended for use in terrorist acts or which have been handled in connection with terrorism. The said laws should also provide for the removal of any existing confidentiality obligations imposed on financial institutions and shift the burden of proving that funds suspected of being connected with terrorism from the State to the person holding the funds, who must then show that the money is legitimately held.

Member States should rationalize international judicial cooperation procedures to improve the exchange of information between the competent authorities of Member States, to facilitate the prosecution and punishment of acts of terrorism.

The Republic of Mauritius emphasizes, however, that these measures must be in strict compliance with the protection of human rights.

Nepal

[Original: English]

The Government of the Kingdom of Nepal declared that the establishment of a voluntary fund for victims of terrorism would be beneficial to Member States.

Niger

[Original: French]

The Government of Niger replied that it cannot endorse all measures and provisions designed to help solve or deal effectively with the problem of terrorism. The proposal for a fund for the victims of terrorism is a commendable one and its adoption would ensure better care for the victims of terrorism, since terrorist acts are often catastrophic because they cannot be predicted and create situations of need for most victims. However, this fund should go beyond care for the victims and include research on terrorism to identify its causes and work out effective strategies to combat and prevent it.

Sri Lanka

[Original: English]

The Government of Sri Lanka is pleased to observe that the adoption of Commission resolution 1995/43 which represents a marked improvement in substance and scope over the previous resolutions of the Commission and constitutes an important step in viewing the increasing global phenomenon of terrorism in its correct perspective. General Assembly resolution 49/185

seeks to complement this development with the timely initiative of a possible establishment of a suitable mechanism in the form of a voluntary fund for victims of terrorism, in order to address the needs of victims of terrorism. The Government of Sri Lanka welcomes the adoption of these two resolutions. In demonstration of its solidarity with victims of terrorism, the Government of Sri Lanka supports the establishment of a United Nations voluntary fund for victims of terrorism as called for in the resolution.